

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff Investment
Securities, LLC

Plaintiff,

v.

JUDY L. KAUFMAN, as a tenant in common,

LISA D. KAVA, as a tenant in common,

NEAL S. KAUFMAN, as a tenant in common,

ROBERT AND REBECCA EPSTEIN
LIVING TRUST, as a tenant in common,

ROBERT A. EPSTEIN, individually and as a
trustee of the Robert and Rebecca Epstein
Living Trust,

REBECCA B. EPSTEIN, individually and as
trustee of the Robert and Rebecca Epstein
Living Trust,

DANIEL C. EPSTEIN, as a tenant in common,
and

JENNIFER SPRING MCPHERSON,

Defendants.

Adv. Pro. No. 10-04527 (SMB)

**STIPULATION AND ORDER DISMISSING
DEFENDANTS ROBERT AND REBECCA EPSTEIN LIVING TRUST, ROBERT A.
EPSTEIN, AND REBECCA B. EPSTEIN WITHOUT PREJUDICE**

WHEREAS, on November 30, 2010, Irving H. Picard, as trustee (“Trustee”) for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa-*III* and the substantively consolidated estate of Bernard L. Madoff, commenced the above-captioned adversary proceeding (the “Adversary Proceeding”) against, among others, Daniel C. Epstein, Robert and Rebecca Epstein Living Trust (“Trust”), Robert A. Epstein, and Rebecca B. Epstein (collectively, the “Epstein Defendants”), in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”);

WHEREAS, the Trust and Daniel C. Epstein were sued as two of the accountholders of BLMIS Account No. 1CM100 (“BLMIS Account”), and Robert A. Epstein and Rebecca B. Epstein were sued as Trustees of the Trust and, individually, as subsequent transferees of the Trust;

WHEREAS, the Epstein Defendants and their counsel have represented to the Trustee that they received no transfers from the BLMIS Account; and

WHEREAS, in reliance on those representations, and based on BLMIS’s books and records, the Trustee, in the exercise of his due and deliberate discretion, has determined to dismiss the Epstein Defendants from the Adversary Proceeding without prejudice under certain terms as set forth in this Stipulation and Order.

IT IS HEREBY agreed and stipulated between the Trustee and the Epstein Defendants as follows:

1. The Epstein Defendants hereby affirm that (a) all representations made by the Epstein Defendants are true and correct under penalty of perjury, and (b) the Trustee has relied

upon these representations in exercising his discretion to dismiss the Epstein Defendants from the Adversary Proceeding.

2. The Epstein Defendants hereby agree that, to the extent it is subsequently determined that the Epstein Defendants deliberately or intentionally made materially false and/or misleading representations, (a) the Trustee shall have the right to reinstitute the Adversary Proceeding against the Epstein Defendants and/or pursue other remedies available to him, and (b) the Epstein Defendants agree that this Stipulation and Order shall act to toll any applicable statutes of limitation with respect to the Trustee's commencement of any such claims and notwithstanding section 546(a) of the Bankruptcy Code, the Epstein Defendants hereby agree to waive any statute of limitations defense in any such actions or claims commenced by Trustee; provided, however, that this Stipulation and Order is not intended to revive any claims which were barred by any statute of limitations or any time-based limitation or defense that expired prior to the commencement of the Adversary Proceeding.

3. Pursuant to Fed. R. Civ. P. 41(a), made applicable to this Adversary Proceeding by Fed. R. Bankr. P. 7041(a), the Trustee and the Epstein Defendants hereby agree that, upon approval of this Stipulation and Order by the Bankruptcy Court, except as set forth in paragraph 2 hereof, the Trustee's claims against the Epstein Defendants are dismissed without prejudice.

4. Upon the dismissal of the Epstein Defendants, the caption of the Adversary Proceeding is hereby amended to delete the Epstein Defendants' from the caption. The amended caption of the Adversary Proceeding shall appear as indicated in Exhibit A to this Stipulation and Order.

5. This Stipulation and Order may be signed by counsel for the parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall

together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this stipulation shall be deemed an original.

6. This Stipulation and Order is subject to the approval of the Bankruptcy Court, failing which the provisions of the Stipulation and Order shall be void and of no effect.

Date: July 17, 2015

By: /s/Marc E. Hirschfield
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*Attorneys for Defendants Robert and Rebecca
Epstein Living Trust, Robert A. Epstein, Rebecca B.
Epstein, and Daniel Epstein*

SO ORDERED:

By: /s/STUART M. BERNSTEIN
HON. STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE

Date: July 17th, 2015

EXHIBIT A

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